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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,684	02/11/2002	John Hulls	033357-008	9166
21839	7590	12/22/2003	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			KATCHEVES, BASIL S	
		ART UNIT	PAPER NUMBER	
		3635		

DATE MAILED: 12/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/074,684	HULLS ET AL.
	Examiner	Art Unit
	Basil Katcheves	3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 19-21 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

Election/Restrictions

Applicant's election without traverse of group I, claims 1-18, in Paper No. 9 is acknowledged.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 11 is drawn to a force resisting device. However, claim 15 recites a sill plate, which sets forth a positive relation between the force resisting device and sill plate and thus appears to be a combination. Applicant should note that claim 15 has inconsistent language and is being considered as drawn to the combination.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 7-14 and 16-18 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,560,940 B2 to Mueller.

Regarding claims 1, 8 and 11, Mueller discloses a force resisting device (fig. 6) across a discontinuous structural element, such as a frame (fig. 6: 110), the force resisting device having an active element (fig. 6: 440).

Regarding claims 2, 9 and 14, Mueller discloses the active element as mounted to the frame member (fig. 6).

Regarding claim 3, Mueller discloses an elastic member in the force resisting device (fig. 6: 450).

Regarding claim 7, Mueller discloses the device as being a connector (fig. 6).

Regarding claims 10, 13 and 18, Mueller discloses an opening in the frame (fig. 6).

Regarding claims 12 and 17, Mueller discloses a shear wall (fig. 1).

Regarding claims 16, Mueller discloses a force resisting device (fig. 6) across a discontinuous structural element, such as a frame (fig. 6: 110), the force resisting device

having an active element (fig. 6: 440). Mueller also discloses a reinforcement element connected to the structure (fig. 6: 100).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,560,940 B2 to Mueller.

Regarding claims 4-6, Mueller does not specifically disclose elastic and plastic behaviors under varying stresses. However, Mueller discloses the basic claim structure of the instant application, as claimed, and therefore the force resisting bracket of Mueller would inherently behave in a similar manner.

Regarding claim 15, Mueller does not specifically disclose the active element as attached to a sill plate. However, Mueller discloses the active element as mounted to a frame member. Because a sill plate is a frame member, It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount the active element to a sill.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to frame supports in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK 

12/8/03



Carl D. Friedman
Supervisory Patent Examiner
Group 3600